IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

WP(C).No. 29770 of 2007(R)

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PETITIONER:

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VODAFONE ESSAR CELLULAR LTD.,
FORMERLY KNOWN AS HUTCHISON ESSAR CELLULAR LTD.,
ASHISH BUILDING, COCHIN - 31, REPRESENTED BY ITS
MANAGER LEGAL, RAJESH, MELETH VEETTIL, AGED 36
YEARS, S/O.RAGHAVAN MELETH VEETTIL.

BY ADV. SRI.P.SATHISAN

RESPONDENTS:

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1. MOODADI GRAMA PANCHAYATH, REPRESENTED
BY ITS SECRETARY, KADALLUR P.O.
KOILANDY, KOZHIKODE.

2. THIKKODI GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY,
THIKKODI P.O., KOZHIKODE.

3. SECRETARY, LOCAL ADMINISTRATION
DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

R1 & R2 BY ADV. SRI.P.R.SREEJITH, SC.
R3 BY ADV. SRI.K.J.MOHAMMED ANZAR, SR. GOVT. LEADER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/10/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**PIUS C. KURIAKOSE, J.**

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W.P.(C) No. 29770 OF 2007

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Dated this the 16th day of October, 2007

**JUDGMENT**

The grievance of the petitioner, a company engaged in private mobile cellular services on the basis of licence agreement entered into between them and the department of tele-communication, is that the first and second respondent Panchayats have rejected their application for installation of mobile towers within the area of those Panchayats in a wake of complaints from local public. Ext.P5 is the rejection order issued by the Secretary of the 1st respondent Panchayat pursuant to a decision of the council of that Panchayat and Ext.P6 is a similar order issued by the Secretary of the 2nd respondent Panchayat. Both in Exts.P5 & P6 the reason for rejection is the mass appraisal against the proposed installation on ground that radiation emanating from the tower will affect the health of the neighbouring public. The issue in my opinion is covered to a considerable extent by the judgment of a Division Bench of this Court in **Reliance Infocom v. Chemancherry Grama Panchayath** [2006 (4) KLT 695]. Sri.P.R.Sreejith, Standing Counsel enters appearance on behalf of respondents 1 & 2. Heard both sides.

Having regard to the submissions made at the Bar, Exts.P5 and P7 will stand quashed and the Writ Petition will stand allowed. I direct

respondents 1 and 2 to take fresh decision on the application submitted by the petitioner to permit the installation of towers within their area by hearing the petitioner as well as the representative of the persons who filed complaint against the proposed installation. Fresh decision as directed above will be taken by the concerned Panchayat in the light of the principles laid down by this Court in **Reliance**'s case(supra) and the materials, if any, produced during hearing by the parties. Fresh decision as directed above shall be taken within one month of receiving copy of this judgment.

**PIUS C. KURIAKOSE, JUDGE**

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